



**VILLAGE OF ESTERO
ZONING
STAFF REPORT**

PROJECT NAME: HARRIS VARIANCE
CASE TYPE: ADMINISTRATIVE VARIANCE
CASE NUMBER: ADD2018-E004
PLANNING AND ZONING BOARD DATE: JUNE 19, 2018

REQUEST

The applicant is requesting an administrative variance for a front road setback reduction from the required 20 feet to 19.56 feet for an existing multi-family unit located at 20699 Country Barn Drive. The residence is located in The Villages at Country Creek, a residential subdivision located on Corkscrew Road.

APPLICATION SUMMARY

Applicant: John D. Spear representing Nelson C. Harris Trustee for Harris Family Trust

Request: Administrative variance from Section 34-268 (a) (1) (f) of the Land Development Code (LDC) for buildings and structures that are not compliant with current setback regulations and can be proven to be permitted.

Location: The property is located at 20699 Country Barn Drive. The applicant indicates the STRAP number for the property is 27-46-25-E3-080A5.0010.

PROJECT HISTORY

The property was rezoned from Agricultural AG-2 to Residential Planned Development (RPD) by Lee County (Resolution ZAB-86-34) in 1986. The development is known as The Villages at Country Creek.

STAFF ANALYSIS

The homeowners are in the process of selling their multi-family unit which is located in the northwest quadrant of the Villages of Country Creek development. During the closing process, the applicant's attorney reviewed the current property survey (dated May 3, 2018) and the development regulations for the subject property. The survey denoted a front yard setback of 19.56 feet whereas 20 feet was required by the development regulations in resolutions ZAB-86-34 and Administrative Amendment PD-94-008.

An administrative variance has been requested for a front road setback reduction from the required 20 feet to 19.56 feet. The applicant's variance request narrative indicates that the existing multi-family unit was properly permitted and was issued a Certificate of Occupancy (CO) by Lee County under permit #COM199510720 on March 27, 1996. The Plat for the subject property was recorded and approved by Lee County as Instrument Number 2016000131402.

Section 34-268 (a) (1) (f) of the Land Development Code allows for buildings or structures that are not in compliance with current setback regulations and that can be proven to have been properly permitted to be considered for an administrative variance.

Section 34-268 (b) requires the administrative variance to meet the following criteria:

- 1) *There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;*
- 2) *The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to the property; and*
- 3) *The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

A survey prepared by Mark O. Allen, Inc. dated May 3, 2018 shows the southeasterly front street setback to be 19.56 feet.

The reduction from 20 feet to 19.56 feet for the front road setback is the minimum variance that will relieve the applicant of the unreasonable burden caused by the application of the regulation in question to the property because the building is already constructed.

The property owners have obtained a letter of no objection from the adjacent property owner located at 20698 Country Barn Drive. A copy of the no objection letter is attached.

RECOMMENDATION

Staff would typically not recommend approval of a variance for an after-the-fact request. However, the building is existing and the variance will resolve the survey finding which was revealed during the sale of the subject property. Staff recommends approval with the following conditions:

- 1) The development must be in compliance with the May 3, 2018 survey prepared by Mark O. Allen, Inc. stamped "Received May 25, 2018" by the Village of Estero.

ATTACHMENT

- A. Applicant's Variance Request Narrative
- B. Boundary Survey dated 5/3/18 and stamped "Received May 25, 2018" by the Village of Estero
- C. Copy of issued Certificate of Occupancy from Lee County
- D. Resolution ZAB-86-34
- E. No Objection Letter